

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI**

Dennis Allen, et al. :

Plaintiffs : **Case No. C-1-01-159**

v. : **Judge Herman S. Weber**
Leonard Kristal : **Magistrate Judge Timothy S. Hogan**

and :

John Crary :

Defendants : **PLAINTIFFS COMBINED
PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW
IN SUPPORT OF SUMMARY
JUDGMENT AGAINST DEFENDANTS
JOHN L. CRARY AND LEONARD D.
KRISTAL - ERRATA**

Plaintiffs Dennis Allen, et al. (Plaintiffs) submit an errata to their Proposed Findings of Fact and Conclusions of Law, filed on November 10, 2003. Plaintiffs erroneously omitted a citation for Finding of Fact #33 on page 7. The correct Finding of Fact should read:

33. Crary had constructive knowledge that Kristal diverted deducted health plan contributions to general corporate purposes.

a. Kristal II, pp. 85-87.

Plaintiffs respectfully request the above citation be substituted in place of the erroneous omission.

Respectfully submitted,

/s/ David M. Cook

David M. Cook (0023469)
Stephen A. Simon (0068268)
David M. Cook, LLC
22 West Ninth Street
Cincinnati, Ohio 45202
Phone: (513) 721-7500
Fax: (513) 721-1178

Trial Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this 12th day of November, 2003, via U.S. regular mail, postage prepaid, upon the following:

Leonard Kristal
107 Diablo Drive
Kentfield, California 94904

Stephen R. Felson
617 Vine Street
Suite 1401
Cincinnati, Ohio 45202
Trial Attorney For Defendant Crary

Paul D. Marotta
Christopher D. Denny
Jennifer Chen
The Corporate Law Group
500 Airport Blvd., Suite 120
Burlingame, CA 94010
Of Counsel for Defendant Crary

/s/ David M. Cook

ATTORNEY FOR PLAINTIFFS